

# **Exhibit A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AUTOMOBILE CLUB OF NEW YORK INC.  
d/b/a AAA NEW YORK and AAA NORTH  
JERSEY, INC.

Plaintiffs,

-against- Case No.  
11-CV-6746 (RKE)

THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY,

Defendant.

-----X

\*\* C O N F I D E N T I A L \*\*

November 29, 2012

9:32 a.m.

370 Lexington Avenue

New York, New York

CONFIDENTIAL DEPOSITION of THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY, the  
Defendant herein, by MICHAEL FABIANO, taken by  
the Plaintiffs, pursuant to the Federal Rules  
of Civil Procedure, and Notice, held at the  
above-mentioned time and place, before Kristi  
Cruz, a Notary Public of the State of New  
York.

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A P P E A R A N C E S:

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New York, New York 10166-0193

BY: ALEXANDER H. SOUTHWELL, ESQ.  
-and-  
NANCY HART, ESQ.  
-and-  
ADAM COHEN, ESQ.

ALSO PRESENT:

MARTA GENOVESE, ESQ., In-House  
Counsel and Vice President,  
AAA New York

1 M. FABIANO - CONFIDENTIAL

2 Port Authority as the ITN?

3 A Correct.

4 Q Today during the deposition I will  
5 be referring at times to the ITN. When I  
6 refer to that, I will be referring to the  
7 Interstate Transportation Network.

8 A Correct.

9 Q That's okay?

10 A Uh-huh, yes.

11 Q Are you involved in capital  
12 planning for The Port Authority?

13 A Not direct project planning. My  
14 role as the chief financial officer is to  
15 advise on capital capacity.

16 Q What does the term capital  
17 capacity mean?

18 A It means that you decide how much  
19 you can afford to spend on capital over a  
20 period of time and still meet all your bond  
21 covenants, because you're going to be  
22 financing some of that with debt, and maintain  
23 your rating agency.

24 So for us, capital capacity is  
25 maintaining your credit ratings, as well as

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2 being able to finance the capital that you  
3 need.

4 Q When you look at capital capacity,  
5 do you look at a capital capacity for each of  
6 the line departments within The Port  
7 Authority?

8 A No. The Port Authority is  
9 comprehensive, consolidated.

10 Q Is it correct that when you look  
11 at capital capacity, you are looking at  
12 capital capacity for the entire Port  
13 Authority?

14 A Correct.

15 Q When I use the term line  
16 departments, does that term mean something to  
17 you within the context of The Port Authority?

18 A Yes.

19 Q What does the term line department  
20 mean?

21 A It's the primary lines of  
22 operational business of The Port Authority;  
23 the aviation department, port department,  
24 World Trade Center, and the ITN network and  
25 the development department or economic

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2 analysis and not separate analyses of the  
3 separate line departments?

4 A We run revenue and expense by line  
5 departments and by facility as informational  
6 reports to understand budget variances. If  
7 that's your question, the answer is yes, we  
8 look at that monthly and we see revenues and  
9 expenses and allocated expenses on a facility  
10 basis to understand where the money, revenues  
11 are coming from and where they're not and  
12 where the expenses are coming from.

13 Q But with respect to capital  
14 capacity, is it correct you look just at the  
15 entire Port Authority and not the separate  
16 line departments?

17 A Correct.

18 Q With respect to the analysis, any  
19 analysis that was being done with respect to  
20 the 2011 toll increase, was any of that  
21 analysis done based on separate line  
22 departments?

23 A No.

24 Q So is it correct that any  
25 financial analysis with respect to the toll

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2 increase was a look by The Port Authority at  
3 the entire Port Authority?

4 MR. SOUTHWELL: Object to  
5 the form.

6 Q And not separate line departments?

7 MR. SOUTHWELL: What  
8 specifically is your question? Is  
9 your question specifically  
10 about -- I'm sorry, I'm just not  
11 sure that I understand it.

12 Q Do you understand the question?

13 A No.

14 MR. MULRY: Could you read  
15 it back?

16 (Record read.)

17 Q Do you understand the question?

18 A About the toll and fare increase,  
19 that was looked at what additional revenues  
20 provide additional capacity for the entire  
21 Port Authority across all business, so in a  
22 corporate level.

23 Q Does The Port Authority do any  
24 analysis with respect to lines of business  
25 that benefit from a given project when you

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2 see where those dollars get expended through  
3 the entire Port Authority, meaning for  
4 operating expenses, for capital expenditures,  
5 for payment of debt service, and for payment  
6 to reserve funds or other expenses?

7 A No.

8 Q Why is that?

9 A You're recognizing revenues when a  
10 revenue is earned, but the cash may not have  
11 come into The Port Authority. We also do not  
12 have individual bank accounts to track dollars  
13 individually by facility, by item. There's  
14 more than one thing that goes into the toll  
15 side of the house. There's, in addition to  
16 tolls, you have some incremental revenues that  
17 come in from other areas, such as fiberoptic  
18 lines and things like that, or concessions, if  
19 there's any concessions in buildings. So the  
20 answer is no.

21 Q If you took all revenues  
22 attributable to the ITN on an earned basis,  
23 could you then follow whether those revenues,  
24 where those revenues were spent within The  
25 Port Authority?



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2 A Once again, the dollars are just  
3 put in a single bank account, a general bank  
4 account or several bank accounts that roll up  
5 general bank accounts, for credit cards and  
6 things like that, not individual facility by  
7 facility specific accounts, where those  
8 dollars are only applied to those facility  
9 expenditures, the answer is no.

10 Q So are all revenues for The Port  
11 Authority, all line departments of The Port  
12 Authority, deposited in a single bank?

13 MR. SOUTHWELL: Object.

14 A Several bank accounts that roll up  
15 and they cleared out depending -- like for  
16 parking lot operations and things like that,  
17 they're collected there, credit card  
18 operations, and then they roll up into the  
19 major account.

20 Q So just so I understand, if I  
21 understand correctly, there's one general bank  
22 account that would collect all Port Authority  
23 revenue from all line departments; is that  
24 correct?

25 A We roll up into a main Citibank

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2 account, all the accounts, all the individual  
3 accounts that may exist. There may be 20, 30  
4 smaller accounts not based on specific  
5 facilities, for specific purposes, and then  
6 the accounts are swept routinely, such as a  
7 bill goes out, it goes to a lockbox. The  
8 lockbox receipts are eventually swept into The  
9 Port Authority, what we call a main account.  
10 That's pretty much the way it works.

11 Q Again, just so I understand, is it  
12 correct that what you're saying is that a  
13 revenue from one of the line departments of  
14 The Port Authority may go through some bank  
15 account or bank accounts or lock boxes, but  
16 ultimately those revenues get to the one  
17 general account?

18 A Yes.

19 Q Would there be a way for The Port  
20 Authority to direct 100 percent of the toll  
21 revenue into the line departments that  
22 comprise the ITN?

23 MR. SOUTHWELL: Object to  
24 the form. I'm not sure what you  
25 mean by direct the revenue.

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2 Q Do you understand the question?

3 A No.

4 Q Could The Port Authority direct  
5 100 percent of PATH revenue into PATH?

6 A No.

7 Q Why not?

8 A I just explained, all the revenues  
9 come in, there's timing differences between  
10 actual collections and actual expenditures and  
11 accruals, you're following GAAP accounting  
12 when you recognize revenues and expense.  
13 We're not following cash flow accounting and  
14 cash basis accounting, and we do it, once  
15 again, on a pooled revenue concept. So all  
16 the revenues flow in and all the expenditures  
17 are made accordingly.

18 Q Are ITN revenues transferred to  
19 reserve funds each year?

20 A No. Pooled revenues of The Port  
21 Authority are, to the degree there are excess  
22 revenues after the payment of operating  
23 expenses, debt service, are then available to  
24 be able to flow into, A, first meeting the ten  
25 percent general reserve fund sizing

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2 [REDACTED]  
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16 [REDACTED]  
17 [REDACTED]

18 Q When you were going through the  
19 process you described in examining the numbers  
20 and looking at whether a toll increase was  
21 needed, were you looking at the financial  
22 projections and financial data for the entire  
23 Port Authority?

24 A Yes.

25 Q During that process, were you

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2 looking at the line departments that comprise  
3 the ITN in isolation to see if a toll increase  
4 was necessary?

5 A No.

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
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2 A ITN direct operating expenses,  
3 agency allocated expenses that are applied to  
4 the ITN, you look at the debt service, and  
5 then you look at the capital expenditures,  
6 similar to my Exhibit B. As you can see from  
7 that, what we do from a corporate level is  
8 just spread it and there's no debt service put  
9 in there, the capital expenditure is not put  
10 in there, it's an income statement, so it's  
11 not capturing the full picture.

12 Based on the ITN affidavit that we  
13 put together, we created what amounts to a  
14 cash flow for the ITN, and that reinforces our  
15 statement that the dollars are all being  
16 expended and there are insufficient dollars to  
17 generate the surplus and profits that was part  
18 of the lawsuit.

19 Q The cash flow for the ITN, you're  
20 referring to Exhibit B to your affidavit in  
21 this case?

22 A Yes.

23 Q Was that created sometime after  
24 September 2011?

25 A That was created in response to

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2 the AAA lawsuit.

3 Q Had such a cash flow analysis for  
4 the ITN ever been done before at The Port  
5 Authority, to your knowledge?

6 A Not to that level.

7 Q Had it been done to any level?

8 A Just, as I said, looking at the  
9 GAAP income statements, and then when you  
10 layer on those GAAP income statements with  
11 capital expenditures, you're not throwing off  
12 large amounts of cash. And when you look at  
13 an income statement, I just want to say this,  
14 you're building facilities where the cost of a  
15 facility is being a billion dollars and you're  
16 writing it off over 40 or 50 years because  
17 you're building a bridge, tunnel, or 100  
18 years. So when you use an income statement,  
19 you're using a surrogate called depreciation,  
20 which a billion dollars spread over 80 years  
21 is not a large dollar amount. The actual bond  
22 issuance cost of the debt are paid off over 30  
23 years. When you begin to factor that in,  
24 which is what we did on Exhibit B, cash flow  
25 statement, that's more realistic as to when

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2 the dollars are going out to actually pay for  
3 that investment.

4 So GAAP income statements are  
5 fine, but when you have long-lived assets like  
6 that, it does not really give you a true cash  
7 picture of dollars and it makes you look like  
8 you're earning dollars now because you're  
9 going to get life out of that bridge well  
10 beyond the bonds that you're paying, but the  
11 money was put up front and has to be paid  
12 earlier than you'll recognize in here.

13 Q In your last answer, are you  
14 comparing a GAAP income statement to a cash  
15 flow statement?

16 A I'm saying that's one of the  
17 disconnects when you look at a net income  
18 statement, when you're building these  
19 long-lived assets, to what we demonstrated on  
20 Exhibit B is when the cash is coming in and  
21 the cash is going out.

22 Q So you prepared a cash flow  
23 statement for the ITN as Exhibit B to your  
24 affidavit. Does The Port Authority prepare  
25 income statements for the line departments



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2 that comprise the ITN?

3 A Schedule E, I believe, of the  
4 annual report, I don't have the annual report  
5 in front of me, but that's published  
6 financials and it shows net income by  
7 facility, by facility, and then we roll it up  
8 into the various departments.

9 Q Did you or someone else at The  
10 Port Authority do a comparison of what an  
11 income statement for the ITN would show  
12 compared to the cash flow statement it  
13 attached as Exhibit B to your affidavit?

14 A No. The income statement is  
15 prepared every year, so it's there, and the  
16 cash flow statement was in direct response to  
17 the statements that were being made by the  
18 AAA, and that directly addressed the  
19 statements of the AAA, and these are prepared  
20 every year, as a matter of fact, the net  
21 income statements, as part of the year-end  
22 closing.

23 Q Is it correct that depreciation  
24 would be included in the income statements?

25 A Correct.

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2 Q Do you include any depreciation in  
3 your cash flow statement?

4 A No.

[REDACTED]

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2 delayed. So it went across the organization.

3 Once again, it's a corporate pool  
4 of wants by departments, and then business  
5 decisions are made around which ones get  
6 financed. Believe me, it's not about, oh,  
7 it's this one and we're going to do that one  
8 because it's in TB&T and we're going to do  
9 this one because it's in aviation and we want  
10 fancy terminals. It's made on engineering  
11 assessments and evaluations and this current  
12 state of the existing assets that sort of  
13 jives this business model.

14 Q Were significant amounts of Port  
15 Authority funding being spent on the World  
16 Trade Center during this period?

17 A Yes.

18 Q Was that one of the causes of  
19 deferring projects such as the George  
20 Washington Bridge, the Lincoln or the  
21 Goethals?

22 A I don't know that you could say  
23 that that was a cause of it. We were getting  
24 sources from the FTA grants and insurance  
25 proceeds to fund a lot of the World Trade

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2 Q Where does that come from?

3 A The consolidated bond resolution.

4 Q Are there any other ratios that  
5 were part of your analysis on the need for  
6 revenue enhancement for The Port Authority?

7 A We look at various rating agency  
8 metrics, I don't have them in front of me  
9 right now, but there's three or four metrics  
10 that we know the ratings agencies are  
11 concerned with, one being gross revenues to  
12 total debt outstanding not exceeding five  
13 times, and things like that. So we're aware  
14 of some of the ratios and we always manage to  
15 four or five of them.

16 So when we're doing our analysis,  
17 we see which ones are going to be there over  
18 our ten-year horizon, try to look ten years  
19 all the time, and where we might have pressure  
20 and where ratios may be approaching those  
21 cutoff points or falling below those points.

22 Q Was the cost of the World Trade  
23 Center at all part of the analysis of the need  
24 for revenue enhancement for The Port  
25 Authority?

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2 A Once again, we do things on a  
3 corporate level. So all the revenues are in  
4 there from the whole Port Authority, all the  
5 expenses of the whole Port Authority are in  
6 there, all the capital expenses of the entire  
7 Port Authority are in those numbers, and all  
8 the debt for the entire Port Authority. So  
9 the ratios are built on the entire Port  
10 Authority and not just on individual  
11 facilities or departments.

12 Q Are you at all involved in the  
13 drafting or issuance of press releases for The  
14 Port Authority?

15 A Not really. I look at them for  
16 any obvious flaws, but nothing. I don't write  
17 the press releases.

18 Q Do you at times review a press  
19 release before it's issued for accuracy or for  
20 some other reason?

21 A Periodically, yes.

22 Q During the time period we've been  
23 describing, where you and others within your  
24 department were looking at the need for  
25 revenue enhancement, were there also analyses

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2 167,000 jobs. Do you see that?

3 A Right.

4 Q Were you familiar with the capital  
5 plan at the time?

6 MR. SOUTHWELL: Object to  
7 the form.

8 Q Were you familiar with the new  
9 \$33 billion ten-year capital plan that's  
10 referred to in the press release?

11 A Yes. And first of all, it's not  
12 an actual plan. This is, once again, what  
13 would capacity be based on the numbers we  
14 projected. So it was not an actual plan put  
15 together with projects listed in it or  
16 whatever. It was more about if the toll  
17 increase went in, this was the \$4, \$2 toll  
18 increase, I believe, with the cash penalties  
19 and everything else, that would fund what, and  
20 we ran the model and we said then it would  
21 increase capacity to about \$33 billion.

22 So that became what they're  
23 calling here the plan over ten years, that you  
24 would fund \$33 billion, potentially, over ten  
25 years, without the specifics of the projects

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2 that make up the \$33 billion.

3 Q Was there something that was being  
4 referred to within The Port Authority in early  
5 August 2011 as the ten-year capital plan?

6 A We always talk in ten-year  
7 increments when we're doing planning and  
8 sizing, but there was no official listing of  
9 projects to comprise a ten-year plan at that  
10 point. We, as I told you before, in  
11 management and budget always have to list the  
12 projects and the department spending and when  
13 they think it's going to be spent. But as far  
14 as an approved plan, there was only one year  
15 annual approved plans for specific  
16 expenditures during that period, not a  
17 comprehensive ten-year plan at that point.  
18 The last one was that 2007 plan.

19 Q And the ten years in the ten-year  
20 capital plan, do you know what that refers to?

21 MR. SOUTHWELL: Where are  
22 you referring to?

23 MR. MULRY: Where it says  
24 new \$33 billion ten-year capital  
25 plan.

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2 A Right. That would be from 2012 to  
3 2021. Is that ten years?

4 Q And the \$33 billion figure  
5 included the costs of all projects that were  
6 anticipated to be begun in that ten-year  
7 period and the \$33 billion included the cost  
8 to complete those projects even if it extended  
9 out beyond ten years?

10 A No.

11 Q That's not your understanding?

12 A No. \$33 billion is the capacity  
13 in that ten-year window. The Lincoln Tunnel  
14 helix project would be starting in the outer  
15 years of that ten-year window, which would be  
16 continuing for another eight or nine years, or  
17 seven or eight years, excuse me. So that  
18 Lincoln Tunnel project is a piece that's in  
19 that ten-year -- I'm giving you an example,  
20 but not all of it is done. You'll be starting  
21 projects in those later years that obviously  
22 won't be done, but at the spending, annual  
23 spending each year in that ten-year window  
24 that added up to \$33 billion.

25 Q So the 33 billion --



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2 A Is capacity.

3 Q For those ten years, and includes  
4 nothing beyond the ten years?

5 A Correct.

6 Q If you go to the second page of  
7 that document, under the first set of bullet  
8 points, it reads, "The Port Authority also  
9 plans to direct 100 percent of the revenue  
10 from the proposed PATH fare increase back into  
11 the PATH system."

12 Do you see that?

13 A Yes.

14 Q Do you have an understanding of  
15 what that means?

16 A I think, my interpretation of that  
17 is the \$0.25 increase of PATH, which comes out  
18 to, if annually it's \$100 million, 76 million  
19 passengers annually, 25 percent is \$18 million  
20 a year, every bit of the \$18 million, in  
21 essence, ends up back in PATH because PATH has  
22 a \$3 billion capital program and it's a  
23 deficit operation. So it's not a direct link  
24 of a dollar being tracked directly back to  
25 PATH.

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2 Q Is it correct that The Port  
3 Authority doesn't have a way to direct revenue  
4 from PATH into PATH projects?

5 A Correct. However, and just for  
6 clarification, it's very easy to say that PATH  
7 is a deficit operation. PATH has extensive  
8 capital needs, and the annual \$18 million  
9 incremental increase in revenues will never,  
10 ever equate to wiping out the operating  
11 deficit of PATH or the capital investment  
12 needs of PATH. So call it marketing, call it  
13 word-smithing, but the concept is still sound.  
14 In essence, every dollar from raising that  
15 PATH fare could be said to be going back into  
16 a PATH system. It's a heavily subsidized  
17 system to begin with.

18 MR. MULRY: I'd ask this  
19 be marked as Exhibit 19.

20 (Plaintiff's Exhibit 19,  
21 Letter dated August 18, 2011,  
22 marked for identification, as of  
23 this date.)

24 Q Are you familiar with that  
25 document, a letter from Governor Christie and

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3

4

5 MR. SOUTHWELL: Yes.

6 Q Did the toll increase have an  
7 effect on the revenues of the ITN?

8 A Yes, they increased the revenues  
9 on the ITN by virtue of the increased toll  
10 fare and usage.

11 Q Did the toll increase have an  
12 effect on the expenditures of the ITN?

13 A One could say it marginally  
14 impacts it because to the degree there's  
15 higher E-ZPass usage, higher credit cards used  
16 to pay these fees, and there's formulas on how  
17 the back office is to process those things,  
18 how they're handled. So, as I said,  
19 marginally. And the program that was required  
20 for the company to go in and change the toll  
21 revenue systems and programs. So those are  
22 kind of areas.

23 Q Did the issue of how much of a  
24 toll increase there was going to be have an  
25 effect on the revenues of the ITN from 2010 to

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2 2020?

3 MR. SOUTHWELL: Objection  
4 to form.

5 You can answer if you  
6 understand it.

7 A If you're asking if the size of  
8 the toll and fare increase impacted the  
9 revenues of the ITN that would be generated  
10 from tolls and fares, the answer is yes.

[REDACTED]

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2 board of commissioners on August 19, 2011?

3 A Yes.

4 Q Did you make a presentation in  
5 both an executive session and public session?

6 A Yes.

7 Q Which came first?

8 A Executive session.

9 Q Were you involved in planning what  
10 information would go to the commissioners with  
11 respect to their determination of whether to  
12 approve a toll increase?

13 A When you're talking about  
14 determination, if you mean did I develop with  
15 my staff the slides that supported the toll  
16 and fare increase and the rationale, the  
17 answer is yes, that was created by my  
18 departments for me.

19 Q Do you know, in addition to your  
20 presentation to the commissioners, what  
21 information was presented to them?

22 A I assume this was all the  
23 information presented to them.

24 Q Do you know if anything else was  
25 presented to them?

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2 [REDACTED]

3 [REDACTED]

4 Q I show you what's been marked  
5 previously as Exhibits 11 and 12.

6 A Yes.

7 Q If you could look at those, if you  
8 could look through them quickly, are those  
9 copies of the PowerPoints you presented in the  
10 executive session and public session on  
11 August 19, 2011?

12 MR. SOUTHWELL: Take your  
13 time to make sure you go through  
14 them.

15 A (Witness perusing.)

16 Yes, I believe these are accurate.

17 Q What was the purpose of your  
18 presentation of this PowerPoint to the  
19 commissioners?

20 A To present for their approval the  
21 new toll and fare structure, as it says on the  
22 opening of the first line, exec session. So I  
23 was laying out the toll and fare structure and  
24 what it would be for the commissioners to have  
25 a full understanding and a briefing of what

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2 was in it as far as the timing and the dollars  
3 and some background on it for them to have my  
4 opinion to weigh in when they approve or  
5 disapprove the toll and fare structure.

6 Q Is it correct to say that you were  
7 presenting a financial justification for the  
8 toll and fare increase to the commissioners?

9 A I think that's accurate to state.

10 Q Since one of these was a public  
11 session, is it also fair to say that you were  
12 presenting this financial justification on  
13 behalf of The Port Authority so that the  
14 public would be aware of it?

15 A Yes.

16 Q And this is an important  
17 presentation, is it not, to the commissioners?

18 MR. SOUTHWELL: Objection.

19 I'm just objecting to form, but  
20 you can answer if you understand  
21 what he's referring to.

22 A I believe it's an important  
23 presentation. I am laying out what I believe,  
24 as the chief financial officer, is important  
25 information to help them make the decision on

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2 whether or not a toll and fare increase was  
3 necessary, and this is just buttressing my  
4 position that it was critical and that it was  
5 something that could not be delayed.

6 Q And it would be important for you  
7 to give them the complete story, your complete  
8 understanding, and not leave anything out;  
9 isn't that right?

10 MR. SOUTHWELL: Objection  
11 to the form.

12 A I believe I did give them the full  
13 story based on my perception of the necessity  
14 and the need for the toll and fare increase.

15 Q If you look at, and we can go  
16 along these together, they mirror each other  
17 to a certain extent, the page numbers 206 and  
18 218. What was the purpose of this slide on  
19 current environment?

20 A The purpose of this slide is to  
21 lay out the context of what happened between  
22 the last toll and fare increase and the  
23 current one. So what didn't happen from what  
24 we originally thought we could afford to the  
25 new reality we were dealing with, and the



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2 New helix as necessary, rebuilding the PATH  
3 system, for instance, which is, in effect,  
4 what we're doing.

5 Q What was the amount for investing  
6 to rebuild the World Trade Center site?

7 A It says here \$11 billion.

8 Q Is that your understanding, as  
9 well?

10 A At that point in time, yes.

[REDACTED]

16 Q If you could go to 207 and 221, do  
17 you see where it says three year zero growth  
18 operating budget?

19 A Yes.

20 Q What does that mean?

21 A That means The Port Authority's  
22 operating expense budget for three consecutive  
23 year was flat, zero growth. So 2.4 billion,  
24 2.4 billion, 2.4 billion. I'm making up the  
25 number 2.4, but zero growth in the operating

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2 determination that all the hearings would be  
3 held in one day?

4 A No, I do not.

5 MR. SOUTHWELL: You mean  
6 other than the public meeting in  
7 Staten Island?

8 THE WITNESS: It was  
9 added.

10 Q Was that a different day, as far  
11 as you know, the added --

12 A I don't know whether or not that  
13 was on a different day.

14 Q And you don't know whose  
15 determination it was as to how and when to  
16 schedule public hearings?

17 A No, it is not. I do not know that  
18 because that's not under my purview at all.

19 Q If you could go to 210 and 224.  
20 With respect to the two, and this is a general  
21 question, with respect to the two PowerPoint  
22 presentations that you have in front of you,  
23 Plaintiff's Exhibits 11 and 12, is it correct  
24 that at the top of each page there's a square,  
25 and that's the PowerPoint slide?

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2 A That is correct.

3 Q In these two documents, there's  
4 writing underneath each of the slides. Can  
5 you describe what that is?

6 A Those are my talking points that I  
7 use when I'm presenting the information at  
8 exec session and also to the public session.

9 Q So just to understand it, is it  
10 correct that the top in the box is the  
11 PowerPoint that probably appeared on a screen  
12 that people could see?

13 A Correct.

14 Q And the bottom written is your own  
15 notes as to the oral presentation you were  
16 giving to the board?

17 A Yes.

18 Q If you could look at the first  
19 paragraph of the oral presentation, it says,  
20 "This toll and fare increase will allow The  
21 Port Authority to invest 25.1 billion in  
22 critical infrastructure projects that will  
23 provide an efficient, safe, and secure  
24 transportation network for our customers who  
25 rely on this agency every day."

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2 Do you see that?

3 A Yes.

4 Q Now, is that a reference to a  
5 ten-year capital plan for 25.1 billion? If  
6 you know.

7 A It's a reference to total agency  
8 capacity to spend approximately 25.1 billion  
9 over a ten-year window. That's all revenues  
10 of The Port Authority, minus expenses, which  
11 gives you net operating revenues, which will  
12 allow you then to meet your ratios to decide  
13 how much to invest.

14 Q That number that you've just  
15 described, which is 25.1 billion in this  
16 presentation, was that number 33 billion in  
17 the original announcement?

18 A I believe that was the number that  
19 was used in the original announcement.

20 Q Do you know how that number went  
21 from 33 billion to 25.1 billion?

22 MR. SOUTHWELL: Objection.

23 I think you're mischaracterizing.

24 I mean, I think the witness said  
25 the number in the estimate is 33.

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2 that within The Port Authority is substantial  
3 investment in the ITN well beyond what we can  
4 currently afford.

5 Q The \$25.1 billion of capital  
6 investment that's referred to there is  
7 25.1 billion of capital investment for the  
8 entire Port Authority?

9 A That is correct.

10 Q It doesn't refer to 25.1 billion  
11 of capital investment for the ITN?

12 A No.

13 Q You didn't present the  
14 commissioners with the amount of capital  
15 investment that would be expended within the  
16 ITN, did you?

17 A During the time of the toll and  
18 fare increase?

19 Q Correct.

20 A No. We were not presenting a  
21 capital plan at that point in time. What we  
22 were doing was authorizing the toll and fare  
23 increase, and the capital plan would be  
24 developed in accordance with the normal  
25 schedule, which was generally presented in

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2 December of each year.

3 Q This talks about \$25.1 billion of  
4 capital investment, yes?

5 A Yes.

6 Q Is part of that \$25.1 billion of  
7 capital investment, capital investment for the  
8 ITN?

9 A Yes.

10 Q You did not tell the commissioners  
11 what part of that capital investment amount  
12 would be attributable to the ITN?

13 A No, I did not. I did later on, I  
14 believe, mention the types of projects and  
15 investments that would be allowed to be made  
16 by virtue of the fact -- on page ten, or  
17 AAA 226, we start talking a little bit about  
18 the benefit of tunnels, bridges and terminals,  
19 on 227, PATH, just generalities, no specifics  
20 on any of the projects, but the type of  
21 capital investment across the organization  
22 that we would be making.

23 Q At the bottom of that page we were  
24 looking at, 210 and 224, it says, "This  
25 capital plan will also benefit," and it goes

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2 on. What capital plan is being referred to  
3 there?

4 A \$25.1 billion of ten-year capital  
5 plan.

6 Q Was there a capital plan or not a  
7 capital plan?

8 A No, that's just a term. I mean,  
9 if we're going to hang our hat on a phrase,  
10 there was no official adopted capital plan at  
11 this point in time.

12 Q Was there --

13 A For this. We were still operating  
14 under the existing one-year annual approved  
15 budget by the commissioners for capital  
16 spending. What we do, as I mentioned before,  
17 in budget is we tell the commissioners what we  
18 can approximately afford over a ten-year  
19 window, and it helps them with some of the  
20 projects when we actually do approve specific  
21 budgets.

22 Q Within The Port Authority at this  
23 time, August 2011, was there a document that  
24 listed capital projects comprising  
25 approximately 25.1 billion that people within

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2 to further on in that.

3 Q The last line of that page, "This  
4 capital plan will also benefit the region by  
5 generating 131,000 jobs," right?

6 Do you see that?

7 A I see that.

8 Q That's for the entire Port  
9 Authority, correct?

10 A Not The Port Authority; the  
11 region. The capital plan generates  
12 construction jobs and warehousing jobs and  
13 trucking jobs. That's from the chief  
14 economist's office, they do that economic  
15 modeling of what a dollar of investment,  
16 depending on where it is invested, would  
17 generate throughout the region and the  
18 economy.

19 Q And those are generated by  
20 projects for the entire Port Authority,  
21 correct?

22 A Yes.

23 Q You never gave the commissioners  
24 an estimate of jobs that would be created by  
25 ITN projects?



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2 A No.

3 Q And that refers to \$7.6 billion in  
4 wages and \$30 billion in sales, do you see  
5 that?

6 A Yes.

7 Q And again, that's with respect to  
8 projects for the entire Port Authority, right?

9 A Yes.

10 Q And you did not give the  
11 commissioners any estimates of wages or sales  
12 to be generated by ITN projects?

13 A No. And those numbers, once  
14 again, for clarification, were prepared by the  
15 chief economist's office.

16 Q If you could go to, you had  
17 referred to this before, page 226 and 211. On  
18 211, this refers to the Bayonne Bridge raise  
19 the roadway project.

20 A Right.

21 Q Why is it necessary to raise the  
22 Bayonne Bridge?

23 A Right now the Bayonne Bridge is  
24 height challenged as far as the critical port  
25 infrastructure business of cargo ships to move

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2 through our ports. To be able to access the  
3 New Jersey ports, the marine terminals, which  
4 is massive cargo facilities and processing  
5 centers for The Port Authority, the new post  
6 Panamax ships that will be coming in in 2014,  
7 they will be bringing in bigger ships and they  
8 will not be able to fit under the Bayonne  
9 Bridge. So for us, it is critical that the  
10 infrastructure and the rail system that we  
11 develop on the ports to handle all this cargo,  
12 that business continues to come to the port,  
13 which is where most of these goods are  
14 expended, in the port region.

15 Q What line department does the  
16 raising of the roadway for the Bayonne Bridge  
17 fall under?

18 A Tunnels, bridges and terminals,  
19 which is part of the ITN.

20 Q Is the raising of the bridge  
21 roadway a benefit to the port commerce line  
22 department?

23 A I believe it's a benefit to the  
24 entire Port Authority by keeping -- once  
25 again, pooled revenue agency, significant

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2 pieces of our business could be impacted if we  
3 don't have the ability to bring in the cargo  
4 that we need to for the port operations.

5 Q How do you generally allocate with  
6 respect to a project which line department  
7 that project will be allocated under?

8 A When a facility is certified and  
9 established by The Port Authority, it's  
10 determined where that facility belongs. So  
11 Bayonne Bridge is part of the tunnels, bridges  
12 and terminals department, it's an automotive  
13 crossing.

14 Q If you could go back to  
15 Plaintiff's Exhibit 10, if you look on page  
16 202, four paragraphs down there is a reference  
17 to Commissioner Sartor.

18 A Yes.

19 Q Plaintiff's Exhibit 10 says that  
20 Commissioner Sartor asked how The Port  
21 Authority would handle funding for the World  
22 Trade Center site above the \$11.3 billion  
23 budget if it becomes necessary.

24 Do you see that?

25 A Yes.

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2 Q Do you recall Commissioner Sartor  
3 asking that at the executive session?

4 A Not particularly.

5 Q If you could read the, well,  
6 what's in italics, it appears to be a  
7 response, "We would need to push out other  
8 projects in the capital plan to accommodate  
9 any additional increases to the World Trade  
10 Center budget."

11 Do you recall someone answering  
12 the question in that session?

13 A That someone would have probably  
14 been me based on these executive notes.

15 Q Do you recall answering the  
16 question?

17 A I recall being at the meeting.  
18 The specifics of answering individual  
19 questions at this point I don't recall, but  
20 that would not be something that I would not  
21 have said.

22 Q Whether or not this was something  
23 you said, is that accurate, based on your  
24 understanding at the time?

25 MR. SOUTHWELL: What

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2 specifically?

3 Q That The Port Authority would need  
4 to push out other projects in the capital plan  
5 to accommodate any additional increases to the  
6 World Trade Center budget.

7 A Conceptually that is accurate  
8 because, once again, you're dealing with  
9 annual capacity to spend dollars, as well as  
10 an overall ten-year plan. So to the degree an  
11 individual project exceeds in one year,  
12 something else cannot fit in that year and you  
13 move it out to the next year or whatever, but  
14 over time you're still balancing to your  
15 \$25.1 billion, and there will be puts and  
16 takes in any event.

17 Q Two paragraphs down there is a  
18 reference to a question from Commissioner  
19 Steiner.

20 A Right.

21 Q On whether staff had ever  
22 calculated tolls from 40 years ago to today  
23 and what they would be based on increases to  
24 the consumer price index.

25 A Right.

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2 A F T E R N O O N S E S S I O N

3 (Time noted: 1:53 p.m.)

4 M I C H A E L F A B I A N O, resumed

5 and testified as follows:

6 CONTINUED EXAMINATION

7 BY MR. MULRY:

8 Q Mr. Fabiano, I'll show you what's  
9 been previously marked as Plaintiff's  
10 Exhibit 14, which is a copy of your affidavit  
11 and exhibits.

12 A Okay.

13 Q This is an 11-page affidavit and  
14 Exhibits A through F, correct?

15 A Correct.

16 Q Exhibit F is a copy of a  
17 transcript of your statement to the board of  
18 commissioners, correct?

19 A It is a copy of the presentation  
20 that I made at the public session, correct.

21 Q If you look just quickly through  
22 Exhibits A, B, C, D and E.

23 A Yes.

24 Q Those Exhibits A, B, C, D and E,  
25 those were not presented to the board of

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2 commissioners in August of 2011, correct?

3 A Correct.

4 Q When were those exhibits created,  
5 A, B, C, D and E?

6 A In response to the litigation.

7 Q If you could turn to paragraph  
8 five of your affidavit, on page three. This  
9 refers to a 10.786 billion dollar preliminary  
10 capital plan for the ITN facilities for 2011  
11 to 2020. Do you see that?

12 A Yes.

13 Q Do you know what that refers to?

14 A Yes.

15 Q What is that?

16 A That represents us putting  
17 together, once again, what we call a \$10.78  
18 billion -- us being management and budget  
19 department, building what we believe is  
20 capacity and taking the list of the various  
21 projects from all the departments and add  
22 perceived spending and what we saw fitting in  
23 there during that time frame.

24 So this is a component of the  
25 entire \$25 billion capital program that we

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2 said was the capacity window.

3 Q Exhibit A is a copy of the  
4 preliminary capital plan for the ITN?

5 A Exhibit A represents the  
6 facilities at a facility level and the dollars  
7 spending by year for the ITN during the period  
8 2011 to 2020.

9 Q And that's the preliminary capital  
10 plan for the ITN for that period?

11 A Yes.

12 Q You did not present a \$10.786  
13 billion preliminary capital plan for the ITN  
14 to the commissioners in August, correct?

15 A Correct. As I mentioned earlier,  
16 this was developed in response to the  
17 affirmations that the toll revenues that were  
18 being collected were in excess of the capital  
19 expenditures and the operating expenses of the  
20 ITN, and this rebuts -- which is our rebuttal  
21 to your litigation.

22 Q Had you ever seen a document like  
23 this prepared within The Port Authority before  
24 you prepared Exhibit A for this affidavit?

25 A No.



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2 Port Authority?

3 A Correct, and those dollars are  
4 included in that, yes.

5 Q Now, Exhibit B, it's not a  
6 document that was presented to the board of  
7 commissioners in August of 2011, correct?

8 A That's correct.

9 Q And it's not an analysis that was  
10 presented in some other form to the board of  
11 commissioners in 2011?

12 A No.

13 Q This type of document, Exhibit B,  
14 is this the type of document that had been  
15 prepared, in your experience, previously in  
16 the Port Authority's ordinary business?

17 A Not to my recollection. This was  
18 directly in response to the AAA assertions and  
19 their claims. Quite frankly, it was never,  
20 ever even considered that the network was  
21 throwing off additional excess cash at any  
22 time in the past. It's always been considered  
23 to be a bit of a drag on the rest of The Port  
24 Authority, with or without those toll  
25 increases.

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2 finish some of the expenditures you're making.  
3 So conceptually, you would have used your  
4 reserve fund. But this is called appropriated  
5 reserve, the capital paid with cash is called  
6 appropriated reserves. That's what we call  
7 it.

8 Q This may not be a question that's  
9 related directly to Exhibit B, but as we're on  
10 the reserve funds, if we're looking at  
11 proceeds from bonds that have been issued,  
12 where do the proceeds from bonds issued by The  
13 Port Authority go as a financial matter on a  
14 corporate level within The Port Authority?

15 A Proceeds from bonds sit in the  
16 capital fund, and they do not flow down. So  
17 any unspent bond flow fees, if that's your  
18 question, do not flow down at the end of the  
19 year, they stay in a separate account called  
20 the capital fund, and that's in our statutory  
21 statements. So those bond proceeds sit there,  
22 and it's where those dollars are used to  
23 direct pay for cash, and those bonds proceeds  
24 are used up in that manner. But they never  
25 flow into reserves. Bonds proceeds do not

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2 flow into reserves.

3 Q Because the bond proceeds don't  
4 flow into either the general reserve fund or  
5 the consolidated bond reserve fund?

6 A That is correct.

7 Q And the bond proceeds on  
8 Exhibit B, is it correct that they would be  
9 part of the 50 percent cash, 50 percent debt  
10 column?

11 A I'm not showing bond proceeds  
12 here.

13 Q Is the 50 percent debt in the  
14 final column represented in a sense on  
15 Exhibit B because it is 50 percent of the  
16 capital paid with cash on a cash basis?

17 A No.

18 Q No?

19 A No. The debt service that you see  
20 on Exhibit B represents the outstanding, that  
21 5827 number --

22 Q No, I'm up, actually, at capital  
23 paid with cash.

24 A That's reserves.

25 Q Oh, that comes from the reserves,

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2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 Q If you can go to Exhibit C. What  
7 is Exhibit C?

8 A Exhibit C is basically the  
9 facilities that comprise the first column that  
10 makes up this Exhibit B, first column, 2007 to  
11 2010. This is by year, these are the ITN  
12 network, basically, Holland Tunnel, Lincoln  
13 Tunnel, George Washington Bridge, revenues,  
14 expenses, capital paid with cash, debt  
15 service, going through, driving these same  
16 numbers, the same as the summary is on  
17 Exhibit B, taking it to a facility level on  
18 Exhibit C. And you see the numbers on the  
19 bottom, 636, 636.

20 Q Is this a document that's  
21 ordinarily prepared in the course of Port  
22 Authority's business?

23 A No, this was done exactly when  
24 this was done (indicating) to make sure we  
25 tied in individually, and this is the roll-up

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2 of doing that (indicating). So one off.

3 Q And Exhibit C, the summary of cash  
4 flows in Exhibit C is not something that was  
5 presented to the board of commissioners in  
6 August 2011?

7 A No.

8 Q One of the entries, it appears at  
9 least twice, under revenues and operations and  
10 operating expenses is access to regions  
11 core/capital infrastructure fund.

12 A Yes.

13 Q Are you familiar with what that  
14 is?

15 A Yes.

16 MR. SOUTHWELL: Just to be  
17 clear, I think it only appears  
18 once. I mean, it appears in the  
19 actual 2010 column and then in the  
20 sum column.

21 MR. MULRY: I was just  
22 referring to the name that we just  
23 described.

24 THE WITNESS: The line  
25 item.

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2 MR. SOUTHWELL: To the  
3 left?

4 MR. MULRY: Yes.

5 MR. SOUTHWELL: Got it.  
6 Sorry.

7 Q The real question is: Are you  
8 familiar with what that means?

9 A Yes.

10 Q What is that?

11 A Access to the region's core was  
12 the mass transit tunnel that The Port  
13 Authority was participating in with New Jersey  
14 Transit and the State of New Jersey and the  
15 federal government. That was the project that  
16 Governor Christie suspended and terminated.  
17 We were going to be a participant in that.

18 Q What is the capital infrastructure  
19 fund?

20 A Once the ARC money was not used  
21 for the tunnel, this became, what we have now  
22 is the Lincoln Tunnel access program projects,  
23 and those are the expenditures for those  
24 roadway projects that we are building that  
25 have been certified as part of the Lincoln

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2 approved. But the program itself was designed  
3 to be up to a dollar amount.

4 Q I'll try to clarify this.

5 What was the ARC project projected  
6 to be funded for?

7 MR. SOUTHWELL: The cast?

8 A Total amount for The Port  
9 Authority, up to \$3 billion was going to be  
10 The Port Authority's commitment for ARC.

11 MR. SOUTHWELL: For the  
12 cost?

13 THE WITNESS: Yes.

14 Q That's the cost of what The Port  
15 Authority expected it would pay if the ARC  
16 project went fully to completion?

17 A Yes.

18 Q So that's what was projected, that  
19 money was not necessarily spent, correct?

20 A Correct.

21 MR. SOUTHWELL: But you're  
22 assuming that that money existed.  
23 It's not like it was --

24 A It's not a pot.

25 MR. SOUTHWELL: -- a pot

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2 of money that was that money.

3 MR. MULRY: No, I'm not  
4 assuming that.

5 MR. SOUTHWELL: Your  
6 question seemed to suggest that  
7 you were assuming that.

8 MR. MULRY: No.

9 Q The ARC project was up to  
10 \$3 billion.

11 A Uh-huh.

12 Q Was money spent on the ARC  
13 project?

14 A Yes, I believe close to, I want to  
15 say 280 or up to 280, 290 million is my  
16 estimate.

17 Q What is the capital infrastructure  
18 fund?

19 A Capital infrastructure fund, on  
20 this term here, before we officially  
21 designated it as the Lincoln Tunnel access, we  
22 put it in as the capital infrastructure fund.  
23 That represents \$1.8 billion of money that was  
24 previously going to be utilized for ARC  
25 related projects, we're using those dollars on



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2 the Lincoln Tunnel projects, which is these  
3 roadway and bridge repair projects to bring  
4 the traffic into the Lincoln Tunnel.

5 Q Are there any amounts remaining  
6 that were designated to go for the ARC project  
7 that appears somewhere as a line item on The  
8 Port Authority finances?

9 MR. SOUTHWELL: Objection,  
10 mischaracterizes. I think the  
11 witness was a little unclear.  
12 It's not as though it was a pot of  
13 money of 1.8 billion that you're  
14 asking where else is it. There's  
15 not a pot of money.

16 Q \$1.8 billion is an amount that The  
17 Port Authority anticipates spending on the  
18 Lincoln Tunnel project?

19 A Over the next seven or eight  
20 years, correct.

21 Q And that's why that 1.8 billion  
22 appears on the capital plan, correct?

23 A Right.

24 Q Do other capital infrastructure  
25 fund line entries appear on the capital plan?

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2 A Yes. The balance, approximately  
3 the difference between what was spent  
4 originally on ARC, we have it as for future  
5 capital infrastructure projects as a reserve  
6 sitting out that is subject to being  
7 identified with a specific project, but those  
8 dollars are in the outer years.

9 Q Is that roughly \$995 million?

10 A 976; nine something.

11 Q Close to a billion dollars?

12 A Yes.

13 Q And that's money that's in the  
14 capital plan?

15 MR. SOUTHWELL: It's not  
16 money.

17 A It's not money. It's a line item.

18 Q It's a line item of dollars that  
19 are in the capital plan to be expended in the  
20 future?

21 A Yes.

22 Q But that is not attributable to  
23 any project at this time?

24 A Correct. It's a component of  
25 available capacity.

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(b) (7)(C), (b) (7)(D)

(b) (7)(C), (b) (7)(D)

(b) (7)(C), (b) (7)(D)

5 Q If you don't have a project that's  
6 going to go with it at this time, why is it  
7 that you need a \$975 million place holder; is  
8 there a reason you couldn't simply reduce the  
9 capital plan by \$975 million?

10           A           Why would I reduce the capital  
11   plan?  I did not set up a capital plan.

12 That's a place holder, once again. [REDACTED]

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2 [REDACTED]

3 [REDACTED]

4 Q Could you go to Exhibit D.

5 A Yes.

6 Q What is Exhibit D?

7 A D is doing the cash flows for the  
8 projected period. C was history, '07, '08,  
9 '09, '10. And D is doing '11 through '20 on  
10 the same exact basis. It goes onto the second  
11 page. That's the middle column of B,  
12 Exhibit B, \$2853.9. So all that is is taking  
13 the same exact thing that you did for the '07  
14 through '10 period, and through the projection  
15 period doing the same thing with anticipated  
16 capital expenditures and such.

17 Q This document, Exhibit D, was  
18 prepared for the litigation, correct?

19 A Correct.

20 Q It was not presented to the board  
21 of commissioners in August 2011?

22 A No.

23 Q Is this type of document,  
24 Exhibit D, prepared in the ordinary course of  
25 The Port Authority's business?

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2 A No.

3 Q Could you please go to Exhibit E.  
4 What is Exhibit E?

5 A Exhibit E is the line item detail  
6 of the third column of Exhibit B, the same  
7 exact breakout.

8 Q And this document was prepared for  
9 the litigation?

10 A Correct.

11 Q It was not presented to the board  
12 of commissioners in August 2011?

13 A No, it was not.

14 Q Is this a document that is  
15 prepared in the ordinary business of The Port  
16 Authority?

17 A No.

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[REDACTED]

20 Q Well, does this chart represent a  
21 cash flow analysis that shows the ITN cash  
22 flow going positive by 2013 and remaining  
23 positive?

24 MR. SOUTHWELL: Asked and  
25 answered. He explained what it

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2 was. It was an academic exercise,  
3 not actuals.

4 A Based on the numbers on the bottom  
5 of this, on this schedule, that's what this  
6 shows. But the components on what's making up  
7 these elements I can't speak to at this point  
8 in time. I don't know what these numbers are,  
9 as I said.

[REDACTED]

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● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]  
● [REDACTED]

14 Q You had mentioned, and I believe  
15 it's built into Exhibit B of your affidavit, a  
16 toll increase in 2018.

17 A CPI.

18 Q Does The Port Authority plan a  
19 toll increase in 2018?

20 A No. What that is is the formula  
21 that exists still to this day from the 2007  
22 toll and fare increase that says once you  
23 raise the toll and fares, the fares are set,  
24 and then from that point on you begin to  
25 calculate a CPI, and when the CPI on a toll,



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2 as long as you have cash tolls and E-ZPass,  
3 reaches a full dollar, you are authorized to  
4 increase the tolls by one there. That was the  
5 2007 toll and fare increase. That language  
6 still exists, so that is out there and it  
7 still exists.

8 So from our perspective, when  
9 we're doing long-range forecasting, once  
10 again, politics aside, we're looking at, okay,  
11 this is authorized as of now, we're going to  
12 assume three percent growth rate on CPI  
13 beginning at the end of the last toll  
14 increase. So the last toll increase goes in  
15 effect December of '16, we say December of  
16 '16, three percent on that gives you a number.  
17 December '17, three percent gives you a  
18 number. December of '18, three percent gives  
19 you that number where you've now broken a  
20 dollar on the cash toll. So at that point,  
21 and figuring in March of '19, that's where I  
22 said we originally estimated it might be '18,  
23 then when we said it's the end of the year for  
24 '15, not the beginning, that it would actually  
25 probably happen in '19, the toll and fare

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2 increase, if it was an automatic CPI still in  
3 effect at that time. And that is authorized  
4 and still under the 2007 increase.

5 So when we do our modeling, we  
6 assume that that's going to be a part of it.  
7 So those numbers were baked into my original  
8 Exhibit B, cash flow, only when we do it back  
9 then for Exhibit B, we expected that to happen  
10 in '18, not '19. In fact, what it did was  
11 increase the revenues that we were projecting  
12 in that original Exhibit B. So this year  
13 we've adjusted that out to '19.

[REDACTED]

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2 Q Was that something that you  
3 advised the commissioners of in August 2011,  
4 that your numbers included an automatic CPI  
5 toll increase in 2018 or 2019, within that  
6 ten-year period you were looking at?

7 A For capacity? No, it never came  
8 up in specific where we were talking about  
9 that we would have capacity.

10 Q So as far as what you said to the  
11 commissioners in August 2011, you never said  
12 anything about a potential additional toll  
13 increase in 2018 or 2019?

14 A No.

[REDACTED]

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2 combined with the existing revenues of the  
3 rest of The Port Authority from all sources  
4 that would then be able to flow down to be  
5 able to finance capital. So all the  
6 businesses, aviation, port, TB&T in this case,  
7 PATH, economic development projects such as  
8 the teleport revenues, the sum total of all  
9 those revenues that exist right now, plus the  
10 incremental revenues that would be generated  
11 by this toll and fare increase, combined give  
12 me a capital capacity window over a ten-year  
13 period of \$33 billion agency-wide. It's not  
14 these dollars from this toll and fare  
15 generates \$33 billion capacity. It's the  
16 total Port Authority existing revenue stream,  
17 plus this incremental revenue stream, because  
18 our capacity before this was in the  
19 \$20 billion range and this incrementalizes it.

20 Q You referred to the overall Port  
21 Authority capacity and you were asked various  
22 questions today about the agency's existence  
23 as a pooled revenue agency. Can you explain  
24 why that's important to a financial picture of  
25 The Port Authority?

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2 A Well, since 1931, when the general  
3 bond reserve fund was created, in order to be  
4 able for The Port Authority to finance  
5 facilities and take on new facilities and  
6 projects, they needed to have the revenue of  
7 the combined existing facilities used to  
8 convince the bondholders that there was value  
9 here and, in fact, they would get paid.

10 So it's always been the pooled  
11 revenue concept, that is the sum of the whole,  
12 because many times when a business is starting  
13 up, their revenues aren't going to be there  
14 initially to support it, but it's that concept  
15 of other facilities would support it follow  
16 such time as it was able to be self-  
17 sustaining, potentially, or if not, add to the  
18 mix, recognizing that The Port Authority's  
19 mission isn't just to generate profit, The  
20 Port Authority's mission exists to serve the  
21 public and facilitate transportation, regional  
22 development, as well as the movement of goods  
23 and commerce efficiently throughout this  
24 region, and we are one of the largest  
25 enterprises that do that, I think, in the

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2 the net income statement and the annual report  
3 for representative purposes, but that is it.

4 Q The bondholders for any of The  
5 Port Authority consolidated bonds can look to  
6 the revenues of all Port Authority line  
7 departments in the event of default?

8 A The term is equally and ratably  
9 secure. So they all -- doesn't matter when  
10 your bond was issued, number 135 is the  
11 equivalent of 185 and you all stand equal in  
12 terms of getting paid on your debt service and  
13 interest pavements.

14 Q And they can all look to the  
15 revenue of all the line departments --

16 A The entire Port Authority. No one  
17 is excluded.

18 MR. MULRY: Thank you.

19 MR. SOUTHWELL: Before we  
20 go off the record, pursuant to the  
21 protective order, I would like to  
22 designate the transcript  
23 confidential. Certainly there are  
24 a number of exhibits that are also  
25 being designated confidential. So